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CHAPTER 139. VOLUNTEER PROTECTION > § 14503. Limitation on liability for volunteers

Citation: **42 usc 14503**

42 USCS § 14503

UNITED STATES CODE SERVICE
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*** CURRENT THROUGH P.L. 108-372, APPROVED 10/25/04 ***

TITLE 42. THE PUBLIC HEALTH AND WELFARE
CHAPTER 139. VOLUNTEER PROTECTION

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42 USCS § 14503 (2004)

§ 14503. Limitation on liability for volunteers

(a) Liability protection for volunteers. Except as provided in subsections (b) and (d), no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity if--

(1) the volunteer was acting within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity at the time of the act or omission;

(2) if appropriate or required, the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity;

(3) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; and

(4) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to--

(A) possess an operator's license; or

(B) maintain insurance.

(b) Concerning responsibility of volunteers to organizations and entities. Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization or any governmental entity against any volunteer of such organization or entity.

(c) No effect on liability of organization or entity. Nothing in this section shall be construed to affect the liability of any nonprofit organization or governmental entity with respect to harm caused to any person.

(d) Exceptions to volunteer liability protection. If the laws of a State limit volunteer liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a nonprofit organization or governmental entity to adhere to risk management procedures, including mandatory training of volunteers.

(2) A State law that makes the organization or entity liable for the acts or omissions of

its volunteers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

(4) A State law that makes a limitation of liability applicable only if the nonprofit organization or governmental entity provides a financially secure source of recovery for individuals who suffer harm as a result of actions taken by a volunteer on behalf of the organization or entity. A financially secure source of recovery may be an insurance policy within specified limits, comparable coverage from a risk pooling mechanism, equivalent assets, or alternative arrangements that satisfy the State that the organization or entity will be able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

(e) Limitation on punitive damages based on the actions of volunteers.

(1) General rule. Punitive damages may not be awarded against a volunteer in an action brought for harm based on the action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction. Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(f) Exceptions to limitations on liability.

(1) In general. The limitations on the liability of a volunteer under this Act [42 USCS §§ 14501 et seq.] shall not apply to any misconduct that--

(A) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(B) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));

(C) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

(D) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

(E) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

(2) Rule of construction. Nothing in this subsection shall be construed to effect subsection (a)(3) or (e).

HISTORY:

(June 18, 1997, P.L. 105-19, § 4, 111 Stat. 219.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Effective date of section:

This section took effect 90 days after enactment, pursuant to § 7 of Act June 18, 1997, P.L. 105-19, which appears as 42 USCS § 14501 note.

NOTES:

RESEARCH GUIDE

Am Jur:

15 Am Jur 2d, Charities § 189.

INTERPRETIVE NOTES AND DECISIONS

Individual volunteer members of nonprofit's board of directors were entitled to protection under Volunteer Protection Act of 1997, 42 USCS §§ 14501 et seq., from wage claim brought by former employee of nonprofit under Fair Labor Standards Act (FLSA), 29 USCS § 201, and their motion to dismiss for failure to state claim for relief under Fed. R. Civ. P. 12(b)(6) was granted. *Armendarez v Glendale Youth Ctr., Inc.* (2003, DC Ariz) 265 F Supp 2d 1136, 8 BNA WH Cas 2d 1356.

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